

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

TONY RAPATZ, ALICE GUERRA, and  
KATHERINE GUERRA,

Plaintiffs,

vs.

Case No.: 12-CV-00827 JCH/SMV

CITY OF ESPANOLA;  
JOE MARTINEZ, individually;  
CHRISTIAN LOPEZ, individually;  
ROBERT VIGIL, individually;  
DANNY PACHECO, individually; and  
CITY OF ESPANOLA EMPLOYEES and SUPERVISORS JOHN/JANE DOES 1 through 5,  
individually,

Defendants.

**NOTICE OF COMPLETION OF BRIEFING**

COME NOW the Plaintiffs, Tony Rapatz, Alice Guerra, and Katherine Guerra [hereinafter “Plaintiffs”] by and through their counsel, New Mexico Firm, LLC [Nathaniel V. Thompkins] and hereby gives notice that the briefing has been completed with regard to Plaintiffs’ Motions [*Docs.174, 177, 178 and 179*]. These matters are ripe for the issuance of an Order granting all three Motions.

Pleadings associated with this issue:

1. [*Doc.174*] Plaintiffs’ Motion for a Ruling on Plaintiffs’ Motion to Compel Directed to the City and Regarding RFP NO.20 and Request that the Court Conduct an In-Camera Questioning of the Defendants and the Confidential Informant – *Filed on May 2, 2015*;
2. [*Doc.178*] Plaintiffs’ Motion for Sanctions against Defendants for Intentional Spoliation of the Confidential Informant’s Files - *Filed on May 3, 2015*;
3. [*Doc.177*] Plaintiffs’ Third Motion to Compel and for Sanctions for Failure to Provide Discovery under Rule 26 - *Filed on May 2, 2015*;

4. [*Doc.179*] Plaintiffs' Second Motion for Directed Verdict or Judgment as a Matter of Law on Counts I (Judicial Deception) and Count II (42 U.S.C. § 1983 violation of Fourth Amendment Rights) – *Filed on May 3, 2015*;
5. Defendants Responses were originally due, in accordance with D.N.M.LR-Civ. 7.4(a), within fourteen days of service of the Motions. May 2, 2015, was a Saturday, and May 3, 2015, was a Sunday, therefore, Defendants' Response were due on May 18, 2015. The parties agreed to a one week extension, which made the Response deadlines May 25, 2015. Pursuant to N.M.LR-Civ. 7.4(a), "the party requesting the extension [Defendants] must file a notice identifying the new deadline and the document (response or reply) to be filed." No Notice of Extension has been filed regarding *Docs.174, 177* and *178*. Additionally, N.M.LR-Civ. 7.4(a) provides that "[a]n extension of briefing time must not interfere with established case management deadlines". On May 13, 2015, the Court set a hearing for June 8, 2015 in Las Cruces. On May 21, 2015, the Court amended the Order for the June 8, 2015 hearing which is now set in Albuquerque, NM; If Defendants file a Response, at this late date, Plaintiffs would not have sufficient time to file a Reply before the June 8, 2015 hearing date;
6. Since no Responses have been filed the Court may proceed under D.N.M.LR-Civ. 7.1(b), which provides in relevant part that, "[t]he failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion."

**WHEREFORE**, Plaintiffs respectfully request that the Court enter an Order or Orders granting Plaintiffs the relief requested in the above-reference Motions, *Docs.174, 177, 178* and *179*.

**RESPECTFULLY SUBMITTED:**

By: /s/ Nathaniel V. Thompson  
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## CERTIFICATION OF SERVICE

I hereby certify that I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing this 1<sup>st</sup> day of June, 2015.

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*Attorneys for the City of Espanola, et al.*

By: /s/ Nathaniel V. Thompkins  
Nathaniel V. Thompkins